

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STATE OF CALIFORNIA,
Plaintiff,
v.
\$112,576 UNITED STATES
CURRENCY,
Defendant.

No. 2:23-CV-0031 TLN KJN PS

FINDINGS AND RECOMMENDATIONS TO
DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION AND
ORDER

In November of 2021, the State of California filed a civil asset forfeiture action in Yuba Superior Court. On January 9, 2023, Marc Boiteau, who is proceeding without counsel, removed the forfeiture action to this court, asserting claimant status and referencing 28 U.S.C. §§ 1333 (admiralty jurisdiction) and 1335 (interpleader jurisdiction).¹ (ECF No. 1.)

The undersigned finds that this court lacks federal subject matter jurisdiction over the action, and so recommends the case be remanded. See United Investors Life Ins. Co. v. Waddell & Reed Inc., 360 F.3d 960, 967 (9th Cir. 2004) (noting the federal court's independent duty to ensure it has subject matter jurisdiction in the case); 28 U.S.C. § 1447(b).

¹ Actions where a party proceeds without counsel are referred to a magistrate judge pursuant to E.D. Cal. L.R. 302(c)(21). See 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72. Resolution of dispositive matters by a magistrate judge are to be filed as findings and recommendations. See Local Rule 304.

1 **Legal Standards**

2 The court must dismiss a case if, at any time, it determines that it lacks subject matter
 3 jurisdiction. Fed. R. Civ. P. 12(h)(3). A federal district court generally has jurisdiction over a
 4 civil action when: (1) a federal question is presented in an action “arising under the Constitution,
 5 laws, or treaties of the United States” or (2) there is complete diversity of citizenship and the
 6 amount in controversy exceeds \$75,000. See 28 U.S.C. §§ 1331, 1332(a). However, federal
 7 courts also have jurisdiction over actions arising under admiralty jurisdiction, as well as
 8 interpleader actions where “[t]wo or more adverse claimants [are] of diverse citizenship” pursuant
 9 to Section 1332. See 28 U.S.C. §§ 1333, 1335.

10 Federal courts lack subject matter jurisdiction to consider claims that are “so insubstantial,
 11 implausible, foreclosed by prior decisions of this court, or otherwise completely devoid of merit
 12 as not to involve a federal controversy.” Steel Co. v. Citizens for a Better Environment, 523 U.S.
 13 83, 89 (1998); Hagans v. Lavine, 415 U.S. 528, 537 (1974) (court lacks subject matter jurisdiction
 14 over claims that are “essentially fictitious,” “obviously frivolous” or “obviously without merit”);
 15 see also Grancare, LLC v. Thrower by & through Mills, 889 F.3d 543, 549-50 (9th Cir. 2018)
 16 (noting that the “wholly insubstantial and frivolous” standard for dismissing claims operates
 17 under Rule 12(b)(1) for lack of federal question jurisdiction). A claim is legally frivolous when it
 18 lacks an arguable basis either in law or in fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989). A
 19 court may dismiss a claim as legally frivolous where it is based on an indisputably meritless legal
 20 theory or where the factual contentions are clearly baseless. Id. at 327; Rule 12(h)(3).

21 **Analysis**

22 Here, the State of California filed an asset forfeiture action under California law. (ECF
 23 No. 1.) Thus, on the face of the complaint, there is no federal question jurisdiction. Further, a
 24 review of Boiteau’s documents indicate he is a resident of California and there are no other
 25 claimants (aside from the state itself), so no diversity jurisdiction exists. Thus, there is no federal
 26 jurisdiction based on the interpleader statute, Boiteau’s citations aside. Further, Boiteau’s
 27 citations to the admiralty jurisdiction statute are legally frivolous, as he appears to simply be
 28 coupling these citations with the numerous documents referencing himself as trustee for himself.

1 See, e.g., United States v. Ward, 182 F.3d 930 (9th Cir. 1999) (noting that contentions based on
2 sovereign citizen arguments are “frivolous” and that “courts ordinarily reject similar contentions
3 without extended argument”).

4 Therefore, the court recommends that the action be remanded to state court for lack of
5 subject matter jurisdiction. 28 U.S.C. § 1447(b) (“If at any time before final judgment it appears
6 that the district court lacks subject matter jurisdiction, the case shall be remanded.”)

7 **RECOMMENDATIONS**

8 Accordingly, IT IS HEREBY RECOMMENDED that:

9 1. The action be REMANDED to state court for lack of subject matter jurisdiction; and
10 2. The Clerk of Court be directed to CLOSE this case.

11 These findings and recommendations are submitted to the United States District Judge assigned to
12 the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after
13 being served with these findings and recommendations, plaintiff may file written objections with
14 the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and
15 Recommendations.” Plaintiff is advised that failure to file objections within the specified time
16 may waive the right to appeal the District Court’s order. Turner v. Duncan, 158 F.3d 449, 455
17 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

18 **ORDER**

19 In light of these recommendations, IT IS ALSO HEREBY ORDERED that all pleading,
20 discovery, and motion practice in this action are stayed pending resolution of these findings and
21 recommendations. Other than objections to the findings and recommendations or non-frivolous
22 motions for emergency relief, the court will not entertain or respond to any pleadings or motions
23 until the findings and recommendations are resolved.

24 Dated: March 8, 2023

25 
26 KENDALL J. NEWMAN
27 UNITED STATES MAGISTRATE JUDGE
28